



Notice of Lodging of Proposed First Amendment To Consent Decree under the Clean Water Act

On December 29, 2021, the Department of Justice lodged a proposed First Amendment to Consent Decree with the United States District Court for the Southern District of Ohio in the lawsuit entitled *United States and the State of Ohio v. City of Middletown, Ohio*, Civil Action No. 18-cv-90.

The Complaint in the United States' lawsuit sought civil penalties and injunctive relief for alleged violations of the Clean Water Act ("CWA") relating to the City of Middletown's sewer system in Middletown, Ohio. The Complaint alleged that: (1) various discharges from Middletown's wastewater treatment plant violated the CWA by exceeding the effluent limitations in Middletown's permits; (2) Middletown's combined sewer overflow discharges violated the CWA by impairing downstream uses in the Great Miami River; (3) Middletown illegally discharged untreated sewage from its combined sewer overflow outfalls during dry weather; and (4) Middletown violated the CWA by failing to monitor and/or report the monitoring results for its outfalls as required.

A Consent Decree resolving the claims in the Complaint was entered by the Court on April 12, 2018. The Consent Decree requires that Middletown, among other things, implement a Long Term Control Plan to reduce the discharges of combined stormwater and sanitary sewage from the portion of Middletown's sewer system known as the combined sewer system. The current LTCP, which was included with the Consent Decree as Appendix A, includes a number of combined sewer overflow control measures. During the detailed design phase of one of these measures following entry of the Consent Decree, Middletown discovered technical difficulties in carrying out the project as originally planned. The proposed First Amendment to Consent Decree substitutes an alternative project to convert a portion of Middletown's combined sewer system into a stormwater-only system.

The publication of this notice opens a period for public comment on the First Amendment to Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States and the State of Ohio v. City of Middletown, Ohio*, D.J. Ref. No. 90-5-1-1-08978. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by e-mail or by mail:

<i>To submit comments:</i>	<i>Send them to:</i>
By e-mail	pubcomment-ees.enrd@usdoj.gov
By mail	Assistant Attorney General U.S. DOJ – ENRD P.O. Box 7611 Washington, D.C. 20044-7611

During the public comment period, the First Amendment to Consent Decree may be examined and downloaded at this Justice Department website:
<https://www.justice.gov/enrd/consent-decrees>. We will provide a paper copy of the First Amendment to Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to:

Consent Decree Library
U.S. DOJ – ENRD
P.O. Box 7611
Washington, D.C. 20044-7611

Please enclose a check or money order for \$2.50 (25 cents per page reproduction cost) payable to the United States Treasury.

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[FR Doc. 2021-28574 Filed: 1/4/2022 8:45 am; Publication Date: 1/5/2022]